

Introduced by Senator Block

February 20, 2014

An act to amend Section 1385 of the Penal Code, relating to dismissal.

LEGISLATIVE COUNSEL'S DIGEST

SB 1222, as amended, Block. Dismissal: criminal action.

Existing law authorizes the judge or magistrate, either of his or her own motion or upon the application of the prosecuting attorney, and in furtherance of justice, to order a criminal action to be dismissed. *The Existing law requires the reasons for the dismissal are required to be set forth in an order entered upon the minutes.*

This bill would ~~give require~~ the judge or magistrate ~~the option of either stating to state~~ the reasons for the dismissal *orally* on the record ~~or setting and to set forth the reasons for the dismissal in an order entered upon the minutes if requested by either party or in any case in which the proceedings are not being recorded electronically or reported by a court reporter.~~ The bill would also make technical, nonsubstantive changes to these provisions.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 1385 of the Penal Code is amended to
- 2 read:
- 3 1385. (a) The judge or magistrate may, either of his or her
- 4 own motion or upon the application of the prosecuting attorney,

1 and in furtherance of justice, order an action to be dismissed. The
2 reasons for the dismissal shall be stated *orally* on the record ~~or~~
3 *and* set forth in an order entered upon the minutes *if requested by*
4 *either party or in any case in which the proceedings are not being*
5 *recorded electronically or reported by a court reporter*. A dismissal
6 shall not be made for any cause that would be ground of demurrer
7 to the accusatory pleading.

8 (b) This section does not authorize a judge to strike any prior
9 conviction of a serious felony for purposes of enhancement of a
10 sentence under Section 667.

11 (c) (1) If the court has the authority pursuant to subdivision (a)
12 to strike or dismiss an enhancement, the court may instead strike
13 the additional punishment for that enhancement in the furtherance
14 of justice in compliance with subdivision (a).

15 (2) This subdivision does not authorize the court to strike the
16 additional punishment for any enhancement that cannot be stricken
17 or dismissed pursuant to subdivision (a).